



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

IOWA DEPARTMENT OF COMMERCE
CREDIT UNION DIVISION
JAMES E. FORNEY
SUPERINTENDENT

INTERPRETIVE BULLETIN

DATE: August 1, 1995

TO: All State Chartered Credit Unions

FROM: James E. Forney
Superintendent of Credit Unions

SUBJECT: Real Estate Escrow Accounts

Iowa state-chartered credit unions are provided the authority to "include in the loan documents signed by the borrower a provision requiring the borrower to pay the credit union each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the credit union in order to better secure the loan." [see Iowa Code subsection 533.16(4)(b) (1995)].

The Real Estate Settlement Procedures Act (RESPA) permits a lender to include in the collection of each monthly payment of principal and interest, an amount equal to one-twelfth of the estimated taxes and assessments and premiums for hazard and mortgage insurance *plus an additional one-sixth cushion of these estimated amounts*.

Some Iowa financial institutions have received an interpretation by their regulatory agency that "*any other payment agreed to by the borrower and the [financial institution] in order to better secure the loan*" could include the additional one-sixth cushion permitted under RESPA. Therefore, in order to provide uniformity in this matter, Iowa credit unions may choose to collect the additional one-sixth cushion (a total of two months of the estimated annual payments of real estate taxes, special assessments, and hazard and mortgage insurance premiums) on all eligible loans originated or refinanced after this date, if the borrower and the credit union agree to the arrangement.

Federal requirements under RESPA require that this cushion remain on reserve in the account, and if at any time the total of the estimated payments held by the lender, together with the future monthly estimated payments prior to the due dates of such items, exceeds by more than one-sixth the estimated amount of payments required to pay such items when due, and if payments on the note are current, then the lender shall either refund the excess over the one-sixth of the estimated payments or credit the excess to subsequent payments by the borrower. Additionally, the Iowa Code requires that the lender pay interest on this additional one-sixth cushion in the escrow account. [see Iowa Code subsection 533.16(4)(b) (1995)].